



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

April 15, 2016

Memorandum for: Deputy Commissioner Trials

Re: **Detective Etienne Mauge**
Tax Registry No. 917950
Housing Police Service Area 2
Disciplinary Case No. 2015-14280

The above named member of the service appeared before Assistant Deputy Commissioner Nancy R. Ryan on February, 23, 2016, charged with the following:

DISCIPLINARY CASE NO. 2015-14280

1. Detective Etienne Mauge, while assigned to the Crime Scene Unit, on or about February 3, 2014, February 4, 2014, August 28, 2014, October 7, 2014, January 5, 2015, January 6, 2015 and April 14, 2015, wrongfully used Department computers to access the files in pending investigations without authority, permission or police necessity.

P.G. 219-14

**DEPARTMENT COMPUTER
SYSTEMS**

2. Detective Etienne Mauge, while assigned to the Crime Scene Unit, on or about August 28, 2014 and October 7, 2014, wrongfully used the computer codes of another Member of the Service to access the files in pending investigations.

P.G. 219-14

**DEPARTMENT COMPUTER
SYSTEMS**

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

3. Detective Etienne Mauge, while assigned to the Crime Scene Unit, on or about August 28, 2014, October 7, 2014, January 5, 2015, January 6, 2015, and April 14, 2015, divulged and/or discussed official, confidential Department business without permission or authority.

P.G. 203-10, Page 1, Paragraph 3

**PUBLIC CONTACT –
PROHIBITED CONDUCT
INFORMATION CONCERNING
OFFICIAL BUSINESS OF
DEPARTMENT**

P.G. 212-76, Page 1, Paragraph 1

4. Detective Etienne Mauge, while assigned to the Crime Scene Unit, on or about August 28, 2014 and April 14, 2015, wrongfully released the identity, address and/or telephone number of two complainants and a witness in pending sex crime investigations to the news media. *(As amended)*

P.G. 212-77, Page 2, Paragraph 3(i)

**RELEASE OF INFORMATION
TO NEWS MEDIA
ADDITIONAL DATA –
CONFIDENTIALITY OF THE
VICTIM OF A SEX CRIME**

5. Detective Etienne Mauge, while on-duty and assigned to the Crime Scene Unit, on or about August 28, 2014, October 7, 2014, January 5, 2015, January 6, 2015, March 8, 2015, and April 14, 2015, wrongfully conducted personal business while on Department time in that he had communications and/or meetings with a member of the news media that were unrelated to his duties and not pertaining to official Department business.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

6. Detective Etienne Mauge, while on-duty and assigned to the Crime Scene Unit, on or about March 8, 2015, was off-post for approximately twenty (20) minutes in that he left his command precinct to conduct personal business.

P.G. 203-05, Page 1, Paragraph 2

**PERFORMANCE ON DUTY -
GENERAL**

7. Detective Etienne Mauge, while on-duty and assigned to the Crime Scene Unit, on or about March 8, 2015, made inaccurate entries in his Activity Log and in the Command Log in that he documented that he was leaving the Command "Administrative (62)", when he was, in fact, going to meal (63).

P.G. 203-05, Page 1, Paragraph 4

**PERFORMANCE ON DUTY -
GENERAL**

In a Memorandum dated March 30, 2016, Assistant Deputy Commissioner Nancy R. Ryan found Detective Etienne Mauge Guilty of all Specifications, after he pleaded Guilty to all Specifications, in Disciplinary Case No. 2015-14280. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of the circumstances and issues in the misconduct for which Detective Mauge has been found Guilty of and deem that separation from the Department is warranted. However, instead of an outright dismissal from the Department, I will permit an alternative manner of separation from the Department for Detective Mauge at this time.

It is therefore directed that an *immediate* post-trial negotiated agreement be implemented with Detective Mauge in which he shall immediately file for vested-interest retirement, forfeit thirty (30) suspension days (previously served), waive all time and leave balances, including terminal leave, and waive all suspension days, with and without pay, if any, and be placed on one (1) year dismissal probation.

Such vested-interest retirement shall also include Detective Mauge's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Detective Mauge does not agree to the terms of this vested-interest retirement agreement as noted, this Office is to be notified without delay. This agreement is to be implemented **IMMEDIATELY**.


William J. Bratton
Police Commissioner

FIRST ENDORSEMENT

First Deputy Commissioner to Deputy Commissioner, Trials, April 19, 2016. Contents noted. Please note the Police Commissioner's **DISAPPROVAL** of the Trial Decision and First Endorsement regarding Disciplinary Case No. 2015-14280 against Detective Etienne Mauge, Tax #917950. Forwarded for your **NECESSARY ATTENTION**.


Benjamin B. Tucker
FIRST DEPUTY COMMISSIONER

BBT/kjg

cc: Deputy Commissioner, Department Advocate
Chief of Personnel
Commanding Officer, Risk Management Bureau
Commanding Officer, Personnel Orders Section
Commanding Officer, Employee Management Division



POLICE DEPARTMENT

March 30, 2016

-----X
In the Matter of the Charges and Specifications : Case No.
- against - : 2015-14280
Detective Etienne Mauge :
Tax Registry No. 917950 :
Housing Police Service Area 2 :
-----X

At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable Nancy R. Ryan
Assistant Deputy Commissioner Trials

APPEARANCE:

For the Department: Daniel Maurer, Esq.
Department Advocate's Office
One Police Plaza
New York, New York 10038

For the Respondent: James Moschella, Esq.
Karasyk & Moschella, LLP
233 Broadway – Suite 2340
New York, NY 10279

To:

HONORABLE WILLIAM J. BRATTON
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

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Website: <http://nyc.gov/nypd>

Charges and Specifications:

1. Detective Etienne Mauge, while assigned to the Crime Scene Unit, on or about February 3, 2014, February 4, 2014, August 28, 2014, October 7, 2014, January 5, 2015, January 6, 2015 and April 14, 2015, wrongfully used Department computers to access the files in pending investigations without authority, permission or police necessity.
P.G. 219-14 – DEPARTMENT COMPUTER SYSTEMS
2. Detective Etienne Mauge, while assigned to the Crime Scene Unit, on or about August 28, 2014 and October 7, 2014, wrongfully used the computer codes of another Member of the Service to access the files in pending investigations.
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P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONTACT
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P.G. 203-10, Page 1, Paragraph 3 – PROHIBITED CONTACT
P.G. 212-76, Page 1, Paragraph 1 – INFORMATION CONCERNING
OFFICIAL BUSINESS OF DEPARTMENT
4. Detective Etienne Mauge, while assigned to the Crime Scene Unit, on or about August 28, 2014 and April 14, 2015, wrongfully released the identity, address and/or telephone number of two complainants and a witness in pending sex crime investigations to the news media. (*As amended*)
P.G. 212-77, Page 2, Paragraph 3(i) – RELEASE OF INFORMATION
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P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT
6. Detective Etienne Mauge, while on-duty and assigned to Crime Scene Unit, on or about March 8, 2015, was off-post for approximately twenty (20) minutes in that he left his command precinct to conduct personal business.
P.G. 203-05, Page 1, Paragraph 2 – PERFORMANCE ON DUTY
7. Detective Eteinne Mauge, while on-duty and assigned to the Crime Scene Unit, on or about March 8, 2015, made inaccurate entries in his Activity Log and in the

Command Log in that he documented that he was leaving the Command "Administrative (62)", when he was, in fact, going to meal (63).

P.G. 203-05, Page 1, Paragraph 4 – PERFORMANCE ON DUTY

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on February 23, 2016. Respondent, through his counsel, entered a plea Guilty to the subject charges and testified in Mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

As Respondent has entered a plea of Guilty to the charges, I find him Guilty.

FINDINGS AND ANALYSIS

As Respondent has plead Guilty to all of the Specifications in this case, his actual conduct is undisputed. He admitted that, on February 3 and 4, 2014, August 28, 2014, October 7, 2014, January 5, 2015, January 6, 2015, and April 14, 2015, while assigned as a crime scene investigator, he used Department computers to access files in pending investigations without authority, permission, or police necessity. (Tr. 23) In two of these situations, (August 28, 2014, and April 14, 2015) he provided confidential information contained in these files pertaining to Special Victims to a reporter. Also, on two occasions, (August 28, 2014, and October 7, 2014), Respondent used another Member of the Service's computer codes to access the confidential computer files.

On or about August 28, 2014, Respondent accessed a Department computer using someone else's password and obtained personal contact information about a rape subject. He accessed the special victim's files and had text communications with a reporter,

Person A. Respondent gave Person A both the phone number and home address of the rape victim. Person A subsequently contacted the victim.

Similarly, on April 14, 2015, Respondent was assigned to process a crime scene of a rape occurring in a bar. After learning Person A wanted to do a story on the case, Respondent, with no official authorized reason to do so, accessed the Special Victim's case files for this case and obtained confidential contact information for the victim and a witness. While on duty, Respondent called Person A. He provided Person A with contact information for the victim.

The Department is requesting that Respondent be terminated based on his conduct. In requesting mitigation, Respondent testified on his own behalf.

Respondent testified that he currently has 19 ½ years on the job and admits that what he did in accessing and releasing the confidential information was wrong. He stated that the reporter in question, Person A, has been a friend since his childhood. He has known her for about 30 years. (Tr. 24) She is friendly with his wife and children. (Tr. 24) During his time in the Crime Scene Unit, his friendship with her continued. (Tr. 25)

There came a time in August 2014, when Person A spoke to Respondent about a woman who had been sexually assaulted by a cab driver in Queens. Respondent had not worked on this crime scene. (Tr. 27) Person A told him she just wanted to contact the victim so she had a chance to get her story out if she wanted to. (Tr. 27-28) She said she wouldn't release any information if the woman did not want her to. Respondent believed her. (Tr. 29) He received nothing from Person A in return for the information. (Tr. 30)

In April 2015, Respondent was assigned to process a rape scene in a bar in Manhattan. A couple of days after this, Person A reached out to Respondent and asked if he could give her the phone number of the victim, again so she could put her story out if the victim wanted to explain it. (Tr. 32) Since Respondent remembered that last time he gave the victim's information to Person A she did not make it public, he thought it would be acceptable to give her this second victim's contact information. (Tr. 32-33) He accessed the case file and gave Person A the victim's phone number. (Tr. 33) Person A reached out to him again after this and asked him to give her the victim's boyfriend's contact information. Respondent again accessed the Department's computers and provided Person A with this information. (Tr. 33) He was never compensated in any way for providing this information. (Tr. 35) He never became aware of her publishing the name of the victim or the boyfriend. (Tr. 35)

Respondent acknowledged that in addition to the two times he provided confidential information about special victims, he also had three other discussions with Person A during which he discussed some details of crime scene investigations with her. (Tr. 36, 40-41) She would tell him that she was working on a story and she wanted to be able to confirm or deny certain information. Respondent would then go into the Department computers and look at the case files and would confirm or deny the information. (Tr. 36-37)

Respondent explained that on the two occasions he accessed confidential Department files using someone else's code, it occurred because he was a training officer and was sometimes logged in with a subordinate officer, Police Officer Henry's, code for the purpose of checking her work. He suggested that he may have been diverted from this

task when contacted by Person A and ultimately used Henry's log-in code to perform searches related to Person A's requests. (Tr. 39-40)

With regard to Specifications 6 and 7, Respondent explained that he was off post for approximately 20 minutes and used an incorrect absence code. He noted that is how he had been taught to do it for the last few years. (Tr. 43) On cross-examination, Respondent admitted that while he didn't know if the date charged was when he met with Person A, he had in the past left his command and met with her while on meal in the 113 Precinct. (Tr. 64-65)

Respondent testified that he did realize the seriousness of his misconduct and apologized to the Court and the Department. He further stated that he didn't mean to cause embarrassment to the Department or disappointment to his family or the victims. He elaborated that he thought it would be helpful if the victims got their stories out, but in hindsight, realizes it was a "very stupid thing to do." (Tr. 42) He deemed his actions a lapse in judgment and asked for a second chance. (Tr. 42-43)

As part of his mitigation, Respondent submitted, without objection by the Department, three letters of reference that speak to his character and his work. Respondent also indicated that he has not previously been the subject of any Departmental charges.

PENALTY RECOMMENDATIONS

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 N.Y.2d 222 (1974). Respondent was appointed to the Department on July 18, 1996. Information from his personnel

record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department seeks termination in this matter. Respondent argues that this is too severe a penalty, noting that he is a nearly twenty-year veteran officer with an unblemished record who understands that his actions were wrong.

Respondent, however, has pled guilty to very serious charges of misconduct. Patrol Guide Section 203-10, page 1, para. 3 clearly states that, "Divulging or discussing official Department business, except as authorized" is prohibited. More specifically, as to the confidentiality of victims of sex crimes, Patrol Guide Section 212-77 provides that "upon receiving a request for information from representatives of the media at a breaking news story," an officer is not to release "the identity of a victim of a sex crime" or "the address or telephone number of a complainant." These provisions could not be more clear and unequivocal. Similarly unambiguous is Patrol Guide Section 219-14 which provides: "Police Department computer systems and equipment are intended for the purposes of conducting official Department business only. Use of Department computer systems for personal or non-Department business matters is strictly prohibited."

Though Respondent argues that his long tenure with the Department should be a mitigating factor, as an experienced officer, he should have known that he was not authorized to use Department computers and discuss Department business for non-Department purposes and, in particular, that the identity and contact information of a sex crime victim must never be divulged to a member of the media. The fact that Respondent twice revealed the identity of a special victim, in addition to confirming or denying details as to several other Department matters, with a reporter shows a complete lack of

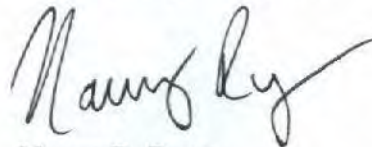
regard for the confidentiality of the plethora of sensitive information Respondent had access to as a Member of the Service. While he indicated that he now recognizes the seriousness of this misconduct, this tribunal finds that given the number of times Respondent provided information to Person A and the fact that he provided her with information about special victims, whose cases are of the most highly sensitive nature, he can no longer be trusted to act with honesty and integrity in maintaining the confidences of the Department, a necessary attribute for all Members of the Service.

Respondent's counsel was correct in pointing out that there are cases where respondents used Department computers for purposes unrelated to official Department business and subsequently disclosed that information but were not terminated. However, those cases did not involve Members of the Service using Department computers and databases to regularly provide a member of the media with information that was not yet public nor did they involve disclosing the identities of victims of rape and sexual assault. *See Case No. 2013-10424* (February 13, 2015) (twenty-four year police officer forfeited twenty-five vacation days after mitigation hearing for divulging to an auxiliary police officer that he was the subject of a confidential investigation); *Case No. 2010-2799* (October 17, 2011) (twenty-seven year captain negotiated a penalty of thirty vacation days and dismissal probation for wrongfully utilizing a Department computer to make an inquiry and providing information from a confidential federal database to a non-MOS for non-Departmental purposes); *Case No. 2004-80292* (June 13, 2005) (twenty-year detective with no prior disciplinary record forfeited 20 vacation days for wrongfully divulging information pertaining to an IAB investigation to a non-IAB MOS).

In cases where the disclosures were considered more egregious, termination or separation from the Department was deemed warranted. *See Case No. 2007-83194* (March 5, 2012), *aff'd, Matter of Conde v. Kelly*, 118 A.D.3d 534 (1st Dep't 2014) (seventeen year sergeant with no prior disciplinary history dismissed for access confidential IAB logs and divulging their contents to the subject officers, including "very sensitive" information about a confidential informant. ADCT found Respondent breached his position of trust and demonstrated he could not be trusted in the future); *Case No. 2004-80129* (April 7, 2009), *aff'd, Matter of Villar v. Kelly*, 82 A.D.3d 579 (1st Dep't 2011) (fourteen-year lieutenant with no prior disciplinary record dismissed for divulging or disseminating official department business to her brother, a drug trafficker, regarding the use of a wiretap and its implications).

Having found that Respondent's disclosures were egregious, repeated, and of a highly sensitive nature on more than one occasion, I recommend that he be DISMISSED from the New York City Police Department.

Respectfully submitted,



Nancy R. Ryan
Assistant Deputy Commissioner Trials

